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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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COMMISSIONERS

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JEFF HATCH-MILLER, Chairman

WILLIAM A. MUNDELL

MARC SPITZER

MIKE GLEASON

KRISTIN K. MAYES

AZ CORP COMMISSION
DOCUMENT CONTROL

DOCKETED BY

IN THE MATTER OF DIVERSIFIED WATER UTILITIES, INC. TO EXPAND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO INCLUDE ALL OF SECTION 13, 14, 15, 23 AND THAT PORTION OF SECTION 16 EAST OF RAILROAD TRACKS ALL IN T3S, R83, PINAL COUNTY, ARIZONA.

DOCKET NO. W-02859A-04-0844

IN THE MATTER OF THE APPLICATION OF JOHNSON UTILITIES COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER SERVICE.

DOCKET NO. WS-02987A-04-0869

PROCEDURAL ORDER

BY THE COMMISSION:

On November 24, 2004, Diversified Water Utilities, Inc. ("Diversified") filed with the Arizona Corporation Commission ("Commission") an application in Docket No. W-02859A-04-0844 for an extension of its Certificate of Convenience and Necessity ("CC&N") in Pinal County by either amending Decision No. 63690 (September 4, 2001)¹ or alternatively by treating the filing as a new application ("Diversified Application").

On December 3, 2004, Johnson Utilities Company ("Johnson") filed an application ("Johnson Application") for an extension of its CC&N in Pinal County. The area sought by Johnson overlaps with a portion of the extension area requested by Diversified.

By Procedural Order issued March 2, 2005, the above-captioned dockets were consolidated.

By Procedural Order issued May 11, 2005, Johnson's Motion to Continue the hearing date was granted, and a Procedural Conference was scheduled for October 17, 2005 to address the status of the consolidated proceedings.

On May 12, 2005, counsel for Johnson, Jay Shapiro of Fennemore Craig, P.C., filed a "Notice

¹ Decision No. 63690 was amended by Decision No. 64062 (October 4, 2001) and Decision No. 65840 (April 22, 2003).

1 of Withdrawal as Counsel of Record” (“Notice of Withdrawal”). The Notice of Withdrawal stated
2 that Richard Sallquist will be taking over representation of Johnson and all future correspondence
3 should be directed to Mr. Sallquist.

4 Although the Notice of Withdrawal appears to assume that the proposed change of counsel
5 may be accomplished without further action, the Commission’s rules clearly require that such a
6 request must be approved by the Commission. A.A.C. R14-3-104(E) states:

7 Withdrawal of attorney. The Commission or presiding officer *may* permit
8 the withdrawal of an attorney from any proceeding *upon written*
9 *application and good cause shown* under such terms, conditions, and
10 notices to clients and other parties as the Commission or presiding officer
11 may direct. Oral application for withdrawal may be made during any open
12 proceeding which is being recorded. (emphasis added)

13 This rule contemplates that withdrawal is permitted only with the approval of the
14 Commission or the Administrative Law Judge following submission of an “application” and
15 explanation why “good cause” exists for granting such application. Simply filing a Notice of
16 Withdrawal does not satisfy the requirements of the rule and, absent the Commission’s approval, Mr.
17 Shapiro continues to be Johnson’s counsel of record for this proceeding.

18 IT IS THEREFORE ORDERED that counsel of record for Johnson Utilities Company, Jay
19 Shapiro of Fennemore Craig, P.C., shall file by June 17, 2005 an Application for Withdrawal as
20 Counsel which includes an explanation of the reason for the proposed withdrawal and why good
21 cause exists to grant the request.

22 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
23 Communications) continues to apply to this proceeding.

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1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
3 hearing.

4 Dated this 3rd day of June, 2005

5
6 

7 DWIGHT D. NODES
8 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

9 The foregoing was mailed/delivered
this 3 day of June, 2005 to:


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11 Michael A. Curtis
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26
27 By: 
28 Molly Johnson
Secretary to Dwight D. Nodes